

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE**

NINA SPEARS,)
)
)
Plaintiff,)
)
)
)
)
) NOTICE OF REMOVAL
SPi AMERICA, LLC and ACUSIS, LLC)
) Jury Trial Demanded
Defendants.)
)

**DEFENDANT SPi AMERICA, LLC's NOTICE OF REMOVAL AND MEMORANDUM
OF LAW**

PLEASE TAKE NOTICE that under 28 U.S.C. §§ 1332, 1441(a) and 1446, Defendant, SPi AMERICAN, LLC (“SPi”) files this NOTICE OF REMOVAL of this case from the Circuit Court for Davidson County Tennessee at Nashville, to the United States District Court for the Middle District of Tennessee. Defendant ACUSIS, LLC (“Acusis”) consents to removal. In support of this Notice of Removal, SPi states as follows:

CASE BACKGROUND AND FOUNDATION FOR REMOVAL

1. On or about November 16, 2011, Plaintiff Nina Spears (“Ms. Spears”) commenced a wrongful termination action in the Circuit Court for Davidson County Tennessee at Nashville, against defendants, SPi and Acusis. SPi America was served with the Summons & Complaint on November 21, 2011 at 2960 Professional Drive, Springfield, Illinois. Acusis was served with the Summons & Complaint on November 23, 2011(a true and correct copy of both Summons and the Complaint is attached as **Exhibit A**). Ms. Spears’ Complaint (“Complaint”) seeks judgment against SPi and Acusis in the amount of \$600,000.00 for compensatory damages

and \$200,000.00 in punitive damages. Ms. Spears' claims are based on an alleged retaliatory action allegedly taken by Defendants that resulted in Ms. Spears' termination.

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because it is a civil action based upon the diversity of citizenship with more than \$75,000 at issue. Further, this matter is one that may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

4. Venue is proper in this Court, because the state court action is pending in the Circuit Court for Davidson County, Tennessee at Nashville. *See* 28 U.S.C. § 1441(a).

COMPLETE DIVERSITY OF CITIZENSHIP

5. There is complete diversity of citizenship between the parties.

(a) Plaintiff: Ms. Spears is a citizen and resident of Davidson County, Tennessee.

(b) Defendants: SPi is a corporation formed in Delaware and having a principal address of 2960 Professional Drive, Springfield, IL. Acusis purchased SPi on or about September 30, 2011. Acusis is a Delaware LLC, having a principle address at 200 1st Ave, 3rd Floor, Pittsburgh, Pennsylvania 15222-1512.

Thus, both Defendants are diverse from Plaintiff Spears.

AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00

6. Plaintiff Spears quantifies the amount of damages she seeks to recover in this case. *See* Exhibit A, pg. 4 ¶¶ 2-3. From the face of the Complaint, it is undisputed the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. Given the complete diversity of the parties and an amount in controversy in excess of \$75,000, this Court has jurisdiction over the causes of action and claims asserted in the

state court action pursuant to 28 U.S.C. § 1332, and this action properly is removable pursuant to 28 U.S.C. § 1441.

OTHER ISSUES

8. Rule of Unity: the Sixth Circuit has adopted the rule of unanimity. *Loftis v. United Parcel Service, Inc.*, 342 F.3d 509, 516 (6th Cir. 2003). For proper removal, all defendants must consent to the removal. This Notice of Removal, signed by counsel for all Defendants, shall serve as evidence that all Defendants consent to removal of this action to this Court.

9. This Notice of Removal is timely filed as removal is proper up to 30 days after the date that service of process is received by the Defendants. See 28 U.S.C. § 1446(b).

10. SPi notified Ms. Spears of this Notice of Removal via certified mail and email.

11. A Notice of Filing of Notice of Removal to Federal Court (attached herein) will be filed in the state court, as soon as this Notice of Removal has been filed in this Court.

12. SPi hereby states there are no hearings set before the state court, from which this case is removed, and all pleadings and process files therein of which SPi is aware are attached hereto.

CONCLUSION

Because Plaintiff and all Defendants are diverse, and the amount in controversy exceeds \$75,000, exclusive of interest and costs, this Court has jurisdiction over Plaintiff Spears' claims pursuant to 28 U.S.C. § 1441. Alternatively, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Defendants are therefore entitled to remove this case to this Court.

WHEREFORE, Defendant SPi requests the action now pending before the Circuit Court for Davidson County, Tennessee at Nashville, Civil Action No. 11C4582, be removed to this Court.

Respectfully submitted,

Douglas R. Pierce

Douglas R. Pierce, Esq.: No. 10084
C. Hunter Kitchens, Esq.: No. 30493
King & Ballow
315 Union Street, Suite 1100
Nashville, Tennessee 37201
Phone: (615) 259-3456
Fax: (615) 726-5419
dpierce@kingballow.com
hkitchens@kingballow.com

Attorneys for Defendant Acusis

John J. Michels /b, DRP w/ permission

John J. Michels, Jr. Esq.: No. 11608
Lewis Brisbois Bisgaard & Smith, LLP
550 W. Adams Suite 300
Chicago, IL 60661
Phone: (312) 345-1718
Fax: (312) 345-1778
jmichels@lbbslaw.com

Attorney for Defendant SPi

CERTIFICATE OF SERVICE

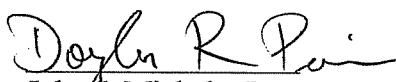
I hereby certify that on the 20th day of December 2011, this Defendant SPI's Notice of Removal and Memorandum of Law was mailed via First Class Mail and electronically filed with the Clerk of Court using CM/ECF which will send a notice of electronic filing to all CM/ECF participants:

H. Thomas Parsons
Parsons & Nichols
101 W. Main Street
Manchester, TN 37355
(931) 728-1316

Attorney for Plaintiff

Douglas R. Pierce, Esq.: No. 10084
C. Hunter Kitchens, Esq.: No. 30493
King & Ballow
315 Union Street, Suite 1100
Nashville, Tennessee 37201
Phone: (615) 259-3456
Fax: (615) 726-5419
dpierce@kingballow.com
hkitchens@kingballow.com

Attorneys for Defendant Acusis


For John J. Michels, Jr.